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DEC 16 2014

SECRETARY, BOARD OF
OIL, GAS & MINING

**BEFORE THE BOARD OF OIL, GAS AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

IN THE MATTER OF THE REQUEST FOR AGENCY ACTION OF FIDELITY EXPLORATION & PRODUCTION COMPANY FOR AN ORDER MODIFYING THE SERIES OF CAUSE NO. 196 ORDERS AND AUTHORIZING THE FLARING OF GAS IN EXCESS OF THE AMOUNTS ALLOWED UNDER UTAH ADMIN. CODE RULE R649-3-20(1.1) ON A UNIT-WIDE BASIS FOR THE CANE CREEK FEDERAL EXPLORATORY UNIT, LOCATED IN PORTIONS OF TOWNSHIPS 25 AND 26 SOUTH, RANGES 18 THROUGH 20 EAST, SLM, GRAND AND SAN JUAN COUNTIES, UTAH

**[PROPOSED]
SECOND SUPPLEMENTAL
FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER**

Docket No. 2013-011

Cause No. 196-44

Petitioner Fidelity Exploration & Production Company's ("Fidelity's") Second Supplemental Request for Agency Action filed on October 20, 2014 in this Cause (the "Second Supplemental Request") came on for hearing before the Utah Board of Oil, Gas and Mining (the "Board") on Wednesday, December 10, 2014, at approximately 9:00 a.m., in the Auditorium of the Utah Department of Natural Resources Building in Salt Lake City. The following Board members were present and participated at the hearing: Chairman Ruland J. Gill, Jr., Kelly L. Payne, Carl F. Kendell, Chris D. Hansen, Michael R. Brown, Susan S. Davis and Gordon L. Moon. The Board was represented by Michael S. Johnson, Esq., Assistant Attorney General.

Testifying on behalf of Fidelity were Wes Adams - Land Technician, and Michael J. Keller - Environmental Affairs Manager. Frederick M. MacDonald, Esq., of

and for MacDonald & Miller Mineral Legal Services, PLLC, appeared as attorney for Fidelity.

John Robinson, Jr., Esq., Assistant Attorney General, appeared as attorney for the Division of Oil, Gas and Mining (the "Division"). The Division did not file a responsive pleading to the Second Supplemental Request and, at the hearing, expressed no objection to the granting thereof.

Jim Davis, Field Operations Supervisor of the Utah School and Institutional Trust Lands Administration ("TLA"), made a statement in support of the granting of the Second Supplemental Request. The statement was not made under oath.

Beth Ransel, Field Manager of the Moab Field Office, and Lance Porter, District Manager of the Canyon Country District Office, of the Bureau of Land Management ("BLM") made statements in support of the granting of the Second Supplemental Request and answered questions from the Board. Neither the statements made nor answers provided were made under oath.

No other party filed a response to the Second Supplemental Request and no other party appeared or participated at the hearing.

The Board, having considered the testimony presented and the exhibits received into evidence at the hearing, being fully advised, and for good cause, hereby makes the following findings of fact, conclusions of law and order in this Cause.

FINDINGS OF FACT

1. Fidelity is a Delaware corporation in good standing with its principal place of business in Denver, Colorado. It is an indirect subsidiary of MDU Resources Group, Inc. Fidelity is duly qualified to conduct business in the State of Utah, and is fully and appropriately bonded with all relevant Federal and State of Utah agencies.

2. The Cane Creek Federal Exploratory Unit (the "Unit"), administered by the BLM, was approved effective April 15, 2002 and is currently comprised of the following Grand and San Juan Counties, Utah lands:

Township 25 South, Range 18 East, SLM

Sections 1-16 inclusive: All
Sections 21-24 inclusive: All

Township 25 South, Range 19 East, SLM

Sections 6-9 inclusive: All
Sections 14-36 inclusive: All

Township 26 South, Range 19 East, SLM

Sections 1-3 inclusive: All
Sections 10-15 inclusive: All
Sections 22-27 inclusive: All
Sections 34-36 inclusive: All

Township 26 South, Range 20 East, SLM

Sections 5-8 inclusive: All
Sections 17-21 inclusive: All
Sections 28-33 inclusive: All

(containing 53,474.19 acres)

There currently are three Cane Creek participating areas within the Unit. Fidelity currently serves as Unit Operator.

3. The oil and gas within the Unit Area is approximately 90% Federally owned, with the remaining 10% owned by the State of Utah (administered by TLA).

4. Pursuant to the Board's Supplemental Order entered on June 13, 2014 in this Cause (the "Supplemental Order"), the Board authorized Fidelity or its successor(s) as operator of the Unit, to flare gas on a Unit-wide basis through December 31, 2014 , or the completion, commissioning and placing into permanent service of the Dead Horse Lateral Pipeline and Processing Plant and connection of individual wells through the gas gathering system, whichever occurs first, provided:

- a) the aggregate amount flared shall not exceed 4,000 MCFPD; and
- b) the amount flared from any one well shall not exceed 775 MCFPD.

The Board also expressly retained jurisdiction over this Cause.

5. The BLM, by Letter dated August 6, 2014 and pursuant to NTL-4A, granted Fidelity authority to flare in accordance with the terms and conditions of the Supplemental Order.

6. The December 31, 2014 date was predicated upon additional National Environmental Protection Act analysis required for the gas gathering system necessary to

commission and supply the Dead Horse Lateral Pipeline and Processing Plant (which would eliminate the need for further flaring), and the BLM's representation at the hearing from which the Supplemental Order issued that it would issue a final decision on the Gas Gathering System Environmental Assessment (the "Gathering EA") by October 1, 2014. An October 1, 2014 BLM approval of the Gathering EA constituted a "worse-case" scenario which would push Fidelity's estimated completion date to its very limit (December 31, 2014).

7. On October 2, 2014, the BLM issued its Record of Decision for the Gathering EA approving construction of the gathering system with specified conditions. Among those conditions, which Fidelity had not previously discussed with the BLM or expected, were a new Compliance Monitoring Plan ("CMP"), different from the CMP used for the Pipeline construction, and a three-week prior written notification to recreational permittees.

8. On October 7, 2014, Fidelity provided the requisite written notice to recreational permittees and, on October 16, 2014, Fidelity and the BLM agreed upon the terms of the CMP. Construction on the gathering system began on October 20, 2014.

9. On October 31, 2014, the Southern Utah Wilderness Alliance and the Sierra Club filed a petition for BLM State Director Review of the Record of Decision for the Gathering EA. On December 1, 2014, the BLM State Director upheld the Record of

Decision on the Gathering EA. Although no stay of the Record of Decision has been requested to date, the Board is cognizant that the limitations period for appeal of the State Director's Decision has not yet run and that there is a potential for further delay.

10. As of the date of the hearing, Fidelity reported the gathering system for one well (the CCU12-1) had been installed and is ready to be commissioned, and that the remaining Phase I gathering system construction will be completed in mid-January, 2015. Approximately 75 - 80% of existing Unit production is required for the Plant to be commissioned. Presuming no other delays beyond Fidelity's reasonable control are encountered, Fidelity expects the Plant and Pipeline to be commissioned and fully operational by March 31, 2015. Fidelity has remained diligent in its efforts to complete and commission the Plant and Pipeline, which remain the only practical and viable alternative to flaring.

11. Fidelity has represented that its projected production through March 31, 2015 will not require any adjustment to the flaring rates authorized under the Supplemental Order.

12. A copy of the Second Supplemental Request was mailed, postage pre-paid, and properly addressed to all mineral, leasehold and production interest owners within the Unit to their last addresses disclosed by the appropriate BLM, TLA and Grand and

San Juan County realty records, and to the TLA and Utah State and Moab Field Offices of the BLM.

13. Notice of the filing of the Second Supplemental Request and of the hearing hereon was duly published on November 16, 2014 in the Salt Lake Tribune and Deseret Morning News, on November 19, 2014 in the San Juan Record and on November 20, 2014 in the Moab Times - Independent.

14. The vote of the Board Members present and participating in the hearing on this Cause was unanimous (7-0) in favor of granting the Second Supplemental Request.

CONCLUSIONS OF LAW

1. The Board has jurisdiction over all matters covered by the Second Supplemental Request and all interested parties therein, and has the power and authority to render the order herein set forth pursuant to Utah Code Ann. §§40-6-5(3)(f) and Utah Admin. Code Rule R649-3-20(5).

2. The terms and conditions of flaring set forth herein are fair, just and reasonable under the circumstances and will minimize waste to the fullest extent possible until the gathering lines, Pipeline and Plant are fully in service.

3. Fidelity has sustained its burden of proof, demonstrated good cause, and satisfied all legal requirements for the granting of the Second Supplemental Request as ordered below.

ORDER

Based upon the Second Supplemental Request, testimony and evidence submitted, and the findings of fact and conclusions of law stated above, the Board hereby orders:

1. The Second Supplemental Request in this cause, as conformed to the testimony and other evidence provided at the hearing, is granted.

2. The Supplemental Order is hereby extended to allow Fidelity, or its successor(s) as operator of the Unit, to flare gas on a Unit-wide basis, with an aggregate rate limitation of 4,000 MCFPD and an individual well rate limitation of 775 MCFPD, through March 31, 2015, or the completion, commissioning and placing into permanent service of the Dead Horse Lateral Pipeline and Processing Plant and connection of individual wells through the gas gathering system, whichever occurs first.

3. Pursuant to Utah Admin. Code Rules R641 and Utah Code Ann. §63G-4-204 to 208, the Board has considered and decided this matter as a formal adjudication.

4. This Order is based exclusively on evidence of record in the adjudicative proceeding or on facts officially noted, and constitutes the signed written order stating the Board's decision and the reasons for the decision, all as required by the Administrative Procedures Act, Utah Code Ann. §63G-4-208 and Utah Administrative Code Rule R641-109.

5. Notice re: Right to Seek Judicial Review by the Utah Supreme Court or to Request Board Reconsideration: As required by Utah Code Ann. §63G-4-208(e) - (g), the Board hereby notifies all parties in interest that they have the right to seek judicial review of this final Board Order in this formal adjudication by filing a timely appeal with the Utah Supreme Court within 30 days after the date that this Order issued. Utah Code Ann. §§63G-4-401(3)(a) and 403. As an alternative to seeking immediate judicial review, and not as a prerequisite to seeking judicial review, the Board also hereby notifies parties that they may elect to request that the Board reconsider this Order, which constitutes a final agency action of the Board. Utah Code Ann. §63G-4-302, entitled, "Agency Review - Reconsideration," states:

(1)(a) Within 20 days after the date that an order is issued for which review by the agency or by a superior agency under Section 63G-4-301 is unavailable, and if the order would otherwise constitute final agency action, any party may file a written request for reconsideration with the agency, stating the specific grounds upon which relief is requested.

(b) Unless otherwise provided by statute, the filing of the request is not a prerequisite for seeking judicial review of the order.

(2) The request for reconsideration shall be filed with the agency and one copy shall be sent by mail to each party by the person making the request.

(3)(a) The agency head, or a person designated for that purpose, shall issue a written order granting the request or denying the request.

(b) If the agency head or the person designated for that purpose does not issue an order within 20 days after the filing of the request, the request for reconsideration shall be considered to be denied.

Id. The Board also hereby notifies the parties that Utah Admin. Code Rule R641-110-100, which is part of a group of Board rules entitled, “Rehearing and Modification of Existing Orders,” states:

Any person affected by a final order or decision of the Board may file a petition for rehearing. Unless otherwise provided, a petition for rehearing must be filed no later than the 10th day of the month following the date of signing of the final order or decision for which the rehearing is sought. A copy of such petition will be served on each other party to the proceeding no later than the 15th day of the month.

Id. See Utah Admin. Code Rule R641-110-200 for the required contents of a petition for Rehearing. If there is any conflict between the deadline in Utah Code Ann. §63G-4-302 and the deadline in Utah Admin. Code Rule R641-110-100 for moving to rehear this matter, the Board hereby rules that the later of the two deadlines shall be available to any party moving to rehear this matter. If the Board later denies a timely petition for rehearing, the party may still seek judicial review of the Order by perfecting a timely appeal with the Utah Supreme Court within 30 days thereafter.

6. The Board retains continuing jurisdiction over all the parties and over the subject matter of this Cause, except to the extent said jurisdiction may be divested by the filing of a timely appeal to seek judicial review of this order by the Utah Supreme Court.

For all purposes, the Chairman’s signature on a faxed copy of this Order shall be deemed the equivalent of a signed original.

DATED this _____ day of _____, 20____.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING

By: _____
Ruland J. Gill, Jr., Chairman

1050.02

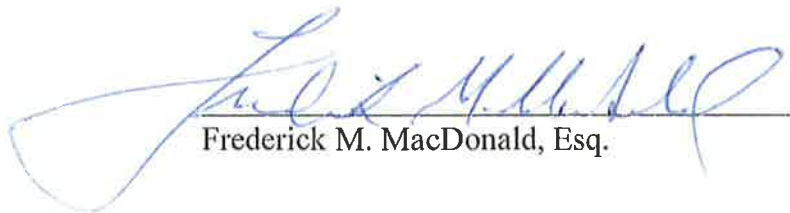
CERTIFICATE OF SERVICE

I hereby certify that, on this 16th day of December, 2014, I caused a true and correct copy of the foregoing *Proposed* Findings of Fact, Conclusions of Law and Order to be mailed, postage pre-paid, and sent electronically to the following:

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